

S 16828

CONGRESSIONAL RECORD — SENATE

November 18, 1983

A bill (H.R. 2898) to declare certain lands to be held in trust for the benefit of the Paiute Indian Tribe of Utah, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 2653

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to submit three amendments on behalf of the distinguished Senator from North Dakota (Mr. ANDREWS) and that they be considered en bloc.

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) for Mr. ANDREWS proposes an amendment numbered 2653.

On page 2, line 1, strike the words "Act are the parcels of land" and insert in lieu thereof the words "section are parcels 1 through 5 of the lands".

On page 8, line 5, after the word "appropriated" add the words "in fiscal year 1985".

At the conclusion of the bill add a new section 6 as follows:

"Sec. 6. The plan for the use or distribution of funds awarded the Creek Nation in Docket Nos. 169 and 272 before the Indian Claims Commission and in Docket Nos. 277 and 309-74 before the United States Court of Claims, and the plan for the use and distribution of funds awarded the Sisseton-Wahpeton Sioux in Docket 363 before the United States Court of Claims, which were submitted to the Congress by the Department of the Interior for consideration under the provisions of the Judgment Fund Distribution Act of 1973 (87 Stat. 466; 25 U.S.C. 1401 et seq.) are hereby declared to be valid and effective as of the date of enactment of this Act and such plans are declared to have been validly submitted and are exempted from any further review."

Mr. ANDREWS. Mr. President, H.R. 2898 provides that approximately 4,770 acres of public lands in the State of Utah shall be held by the United States in trust for the benefit of the Paiute Indian Tribe of Utah and will establish an economic development fund for the tribe in the amount of \$2.5 million. The bill was introduced in the House of Representatives by Mr. MARRIOTT and it has the support of the Utah delegation and the administration.

In 1954, Congress passed legislation terminating the Federal Government's legal relationship with the five bands that comprise the Paiute Indian Tribe of Utah. By act of April 3, 1980, Public Law 96-277, the Paiute Tribe of Utah was restored to federally recognized status and the Secretary of the Interior was directed to submit to Congress within 2 years a proposal for the addition of not more than 15,000 acres of "available public, State and private lands." The Department and the tribe have worked closely with State and local interests in the development of a land acquisition plan but the tribe was unable to locate more than 4,770 acres of available lands without engendering excessive controversy. The provision for establishment of the economic de-

velopment fund in the amount of \$2.5 million was developed as a means of providing the tribe with some economic base.

Mr. President, the first two amendments I have sent to the desk are for clarification. The first makes clear that the lands that are to be taken in trust are parcels 1 through 5 of the lands depicted on the maps contained in the proposed Paiute Indian Tribe of Utah reservation plan of January 24, 1982, published by the Department of the Interior. The second amendment is to make clear that appropriation of funds for the economic development fund is not authorized until fiscal year 1985.

Mr. President, the third amendment I send to the desk will add a new section 6 to this bill to waive further consideration by the Congress of two judgment distribution plans submitted to the Congress by the Department of the Interior under the Judgment Fund Distribution Act of 1973, as amended (25 U.S.C. 1401 et seq.) I offer this amendment on my behalf and for Mr. BURDICK, Mr. ABDNOR, Mr. PRESSLER, Mr. BOREN, and Mr. NICKLES. One of the two plans involves judgment funds awarded the Creek Indian Nation and the other involves the Sisseton-Wahpeton Tribe of North Dakota and South Dakota and the Devil's Lake Sioux Indian Tribe of North Dakota. Funds in satisfaction of these awards have already been appropriated and are on deposit with the Department of Treasury.

The Judgment Fund Distribution Act of 1973 (25 U.S.C. 1401) provides that the Secretary of the Interior shall submit to the Congress plans for the use and distribution of funds awarded Indian tribes or descendant groups by the Indian Claims Commission or the U.S. Court of Claims. These plans, developed in consultation with the tribes, must lay before the Congress for 60 legislative days (days in which both the House and the Senate are in session) in order to become effective. Two plans are presently before the Congress which will fail to become effective if the Congress adjourns on November 18 as presently scheduled. These tribes desperately need these funds and the tribes should not be compelled to wait an additional 60 days while the Congress is in recess for these plans to become effective.

Mr. President, I urge the Senate to act favorably on H.R. 2898 with these amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Tennessee.

The amendment (No. 2652) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 2898) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INTELLIGENCE PERSONNEL AND PROBATION OFFICER PROTECTION ACT

Mr. BAKER. Mr. President, next I propose to go to S. 779, if the minority leader is agreeable.

Mr. BYRD. There is no objection.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 779) entitled the "Intelligence Personnel Protection Act."

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments.

On page 2, after line 3, insert "or any United States probation officer or pretrial services officer."

On page 2, line 8, strike "or" and insert "and".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 51 of title 18 of the United States Code, section 1114, is amended—

(a) by inserting "or attempts to kill" after "kills";

(b) by striking out "while engaged in the performance of his official duties or on account of the performance of his official duties" and inserting in lieu thereof "or any United States probation officer or pretrial services officer, or any officer or employee of any department or agency within the Intelligence Community (as defined in section 3.4(f) of Executive Order 12333, December 4, 1981, or successor orders) not already covered under the terms of this section"; and

(c) by inserting before the period at the end thereof a comma and the following: "except that any such person who is found guilty of attempted murder shall be imprisoned for not more than twenty years".

Mr. BAKER. Mr. President, I ask unanimous consent that the amendments be considered en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I move adoption of the amendments en bloc.

The PRESIDING OFFICER. The question is on agreeing to the amendments in bloc.

The amendments were agreed to.

Mr. THURMOND. Mr. President, I urge my colleagues to join me in strong support of S. 779, the Intelligence Personnel and Probation Officers Protection Act. This bill comes to the floor after 2 years of determined effort by the distinguished ranking minority member of the Committee on

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the Judiciary, Senator JOSEPH R. BIDEN, JR., who also serves on the Select Intelligence Committee, and myself.

My colleagues will probably be surprised to learn that it is currently not a Federal offense to murder an intelligence officer or employee, despite the obvious interest of our National Government in the protection of those individuals and in the efficient investigation and prosecution of offenses directed against them. S. 779 would address this inadequacy by including officers and employees of the intelligence community in the list of Federal employees covered under the murder offense in section 1114 of title 18 of the United States Code. The proposed legislation would be limited to situations where the act occurred during or on account of the performance of duty.

The bill reported by the Committee on the Judiciary contains an amendment which I offered to include probation and pretrial service officers under section 1114. Similar provisions have been included in both House and Senate Criminal Code reform measures in previous Congresses. My amendment differs slightly from earlier versions in that it includes pretrial services officers, in addition to probation officers, because they perform similar duties. This change was necessitated by enactment of the Pretrial Services Act of 1983 (Public Law 97-267).

Finally, S. 779 makes one improvement in section 1114, which would apply to all listed employees. Attempts to kill would also become an offense and would be punishable by a maximum term of imprisonment of 20 years. Under current law, conduct of this nature would only be punishable under 18 U.S.C. 111 (relating to assaults), with much less severe penalties. S. 779 would provide a more realistic deterrent.

Mr. President, our Nation's intelligence personnel, probation officers, and pretrial services officers perform dangerous duties crucial to the national security and the safety of our citizens. Their inclusion in section 1114 is long overdue. Delay has not stemmed from a lack of consensus on the merit of the issue, but from the fact that these changes have frequently been attempted in more comprehensive legislation, such as intelligence authorization and criminal reform measures, which presented unrelated problems. These brave individuals should not be further penalized because of any past problems in proceeding. I am therefore hopeful that this body and the other body will act favorably upon this noncontroversial legislation without further delay.

Mr. BIDEN. Mr. President, this legislation was originally proposed by the CIA and has been endorsed by the Department of Justice for inclusion in intelligence authorization legislation as well as in separate legislation. Identical

cal legislation passed both the Senate and the House in the 97th Congress in title III of H.R. 3963, the "Violent Crime and Drug Enforcement Improvements Act of 1982." Although H.R. 3963 failed to receive the President's approval, the President's statement on the legislation said, "I completely support some of the features of H.R. 3963, such as the Federal Intelligence Personnel Protection Act."

This legislation is essential to insure that intelligence personnel have the same type of protection against murderous assaults as is afforded by current law to many other employees of the Federal Government.

Senior intelligence officials frequently receive threats to their safety, and lower level employees have also been threatened by persons who learn of their intelligence affiliation. However, under present law, there is not an adequate basis for Federal criminal investigation or prosecution in cases where there is evidence that an assault will occur in the performance of the employee's official duties.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 779) was passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The title was amended so as to read: A bill entitled the "Intelligence Personnel and Probation Officer Protection Act."

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS OF 1983

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1341.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives relating to S. 1341, the Education of the Handicapped Act Amendments of 1983.

AMENDMENT NO. 2654

Mr. BAKER. Mr. President, I move that the Senate concur in the House amendment with a further amendment which I send to the desk on behalf of the distinguished Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Tennessee (Mr. BAKER) on behalf of Mr. HATCH proposes amendment numbered 2654.

Mr. BAKER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

I move that the Senate concur in the amendment of the House of Representatives to the bill S. 1341, An Act to revise and extend the Education of the Handicapped Act, and for other purposes, with the following amendments:

Before the first section insert the following:

TITLE I—EDUCATION OF THE HANDICAPPED PROGRAM

In the first section, strike out "That this Act" and insert in lieu thereof "Sec. 101. This title".

Strike out sections 19 and 20.

Redesignate sections 2 through 18 as sections 102 through 118, respectively.

In the parenthetical in section 102 (as redesignated) strike out "this Act" and insert in lieu thereof "this title".

In section 118 (as redesignated) strike out "this Act" each time it appears and insert in lieu thereof "this title".

At the end of the bill, add the following:

TITLE II—REHABILITATION PROGRAM VOCATIONAL REHABILITATION SERVICES

Sec. 201. (a) Section 100(b)(1) of the Rehabilitation Act of 1973 (hereafter in this title referred to as "the Act") is amended to read as follows:

"(b)(1) For the purpose of making grants to States under part B of this title to assist them in meeting the costs of vocational rehabilitation services provided in accordance with State plans under section 101, there is authorized to be appropriated \$1,037,800,000 for the fiscal year 1984, \$1,070,000,000 for the fiscal year 1985, and \$1,103,000,000 for the fiscal year 1986."

(b) The first sentence of section 100(b)(2) of the Act is amended to read as follows:

"(2) For the purpose of allotments under section 120(a)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1984, 1985, and 1986."

(c) Section 100(b)(3) of the Act is amended by striking out "the fiscal year ending September 30, 1979, and for each of the three fiscal years thereafter" and inserting in lieu thereof "each of the fiscal years 1984, 1985, and 1986."

CLIENT ASSISTANCE

Sec. 202. Section 112(g) of the Act is amended to read as follows:

"(g) There are authorized to be appropriated \$6,000,000 for the fiscal year 1984, \$6,300,000 for the fiscal year 1985, and \$6,700,000 for the fiscal year 1986."

RESEARCH

Sec. 203. section 201(a) of the Act is amended to read as follows: "There are authorized to be appropriated \$36,000,000 for the fiscal year 1984, \$38,000,000 for the fiscal year 1985, and \$40,000,000 for the fiscal year 1985 to carry out the provisions of this title."

SUPPLEMENTARY SERVICES AND FACILITIES

Sec. 204. (a) Section 301(a) of the Act is amended by striking out "October 1, 1982" in the first sentence and inserting in lieu thereof the following: "October 1, 1986";